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APR 30 2010

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FEDERAL ELECTION
COMMISSION
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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
MUR 6265)
GAUSE FOR CONGRESS AND)
LAWRENCE F. GAUSE, AS TREASURER)

2010 APR 30 A 9 17
CASE CLOSURE UNDER THE
ENFORCEMENT PRIORITY SYSTEM

SENSITIVE

GENERAL COUNSEL'S REPORT

Under the Enforcement Priority System, matters that are low-rated

are

forwarded to the Commission with a recommendation for dismissal. The Commission has determined that pursuing low-rated matters, compared to other higher-rated matters on the Enforcement docket, warrants the exercise of its prosecutorial discretion to dismiss these cases. The Office of General Counsel scored MUR 6265 as a low-rated matter.

In this matter, the complainant, Jason Lee Childers, states that Gause for Congress and Lawrence F. Gause, in his official capacity as treasurer (collectively "the Committee"), violated the Federal Election Campaign Act of 1971, as amended ("Act"), and underlying regulations, by failing to include disclaimers on "all [of the Committee's] campaign advertising," including its "push cards" and website. Specifically, the complainant maintains that, on March 5, 2010, candidate Larry Gause distributed "push cards"¹ which failed to include information stating who had paid for them, in apparent violation of 2 U.S.C. § 441d(a) and 11 C.F.R. §§ 110.11(a) and (b)(1).

In addition, the complainant asserts that he located the Committee's internet website and determined that it lacked a disclaimer, also in violation of 2 U.S.C. § 441d(a) and 11 C.F.R. §§ 110.11(a) and (b)(1). Enclosed with the complaint are photocopies of what appear to be one of the Committee's push cards and a page from the Committee's website, both of which identify

¹ The term "push card" is not defined in the Act or underlying regulations.

1 Gause as a candidate for Congress from Georgia's Fourth Congressional District, but which do
2 not include disclaimers stating who had paid for and authorized them. The complainant
3 concludes by requesting that the Commission review this matter.

4 Mr. Gause, responding on behalf of the Committee, asserts that "all push cards in
5 question have been pulled" and that a disclaimer has been added to the Committee's website.
6 An internet search indicates that the Committee's website at <http://www.gauseforcongress.com/>
7 includes the disclaimer "Paid for By the Gause for Congress Campaign.""

8 Political committee campaign materials that require disclaimers include, *inter alia*,
9 internet websites and communications disseminated through broadcasting stations, newspapers,
10 magazines, or other types of general public political advertising, *see* 2 U.S.C. § 441d(a); *see*
11 *also* 11 C.F.R. § 110.11(a). Based on the available information, we are unable to determine the
12 complete scope and manner in which the push cards were employed. However, the Committee
13 has conceded that a disclaimer may have been necessary and has acknowledged affixing
14 disclaimers to its push cards and various other campaign materials. Moreover, the Committee
15 has acknowledged that its website might not have included the requisite disclaimers during
16 some portion of Gause's campaign.

17 In light of the Committee's remedial action, and in furtherance of the Commission's
18 priorities and resources, relative to other matters pending on the Enforcement docket, the Office
19 of General Counsel believes that the Commission should exercise its prosecutorial discretion
20 and dismiss this matter. *See Heckler v. Chaney*, 470 U.S. 821 (1985). Additionally, this Office
21 intends on reminding Gause for Congress and Lawrence F. Gause, in his official capacity as
22 treasurer, of the requirements under 2 U.S.C. § 441d(a) and 11 C.F.R. §§ 110.11(a) and (b)(1)
23 concerning the use of appropriate disclaimers.

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RECOMMENDATIONS

The Office of General Counsel recommends that the Commission dismiss MUR 6265, close the file, and approve the appropriate letters. Additionally, this Office recommends reminding Ganse for Congress and Lawrence F. Gause, in his official capacity as treasurer, of the requirements under 2 U.S.C. § 441d(a) and 11 C.F.R. §§ 110.11(a) and (b)(1) concerning the use of appropriate disclaimers.

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4/30/10
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